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AN

Eulogium

ON THE LATE

HON. THEODORE GAILLARD,

*One of the Judges of the Court of Common Pleas, and formerly
a Chancellor of South Carolina,*

DELIVERED,

AGREEABLY TO APPOINTMENT, IN ST. MICHAEL'S CHURCH,

MAY 19, 1829.

BY WILLIAM LANCE.

"Quid enim tam distans, quam a severitate comitas? Quis tamen unquam te aut sanctior est habitus aut dulcior? Quid tam difficile quam in plurimorum controversiis dijudicandis ab omnibus diligi? Consequeris tamen, ut eos ipsos, quos contra statuas, æquos placatosque dimittas. Itaque efficias, ut cum gratiæ causa nihil facias, omnia tamen sint grata, quæ facis."

—Orat. ad Brut. 3. 10.



Charleston,

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1829.

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TO WM. LANCE, Esq.

DEAR SIR,

Agreeably to the request of several Gentlemen of the Bar, who were at the meeting which appointed you to deliver an Eulogy upon the late Judge Gaillard, I beg the favour of you to furnish a copy of your just and eloquent remarks for publication. In being the organ of their request upon this subject, permit me at the same time to add that it will be a source of great gratification to me to peruse what so much delighted me at the hearing.

With great respect, your's truly,

JOHN L. WILSON,

Chairman.

May 25th, 1829.

DEAR SIR,

Agreeably to your request, I have sent you a copy of the Eulogium on Judge Gaillard for publication. With considerations of respect and esteem,

I am, dear Sir,

Your Obedient Servant,

WILLIAM LANCE.

June 15, 1829.

HON. JOHN L. WILSON.

EULOGIUM.

OUR community, fellow-citizens, has by the dispensation of Providence been bereaved of a member, whose excellencies were the delight of his social circle, and diffused a steady lustre over his public career. Within a few weeks, there has descended to the tomb, but several years below the measure of a long human life, an individual whose private friendship many of us proudly and intimately enjoyed, and whose honorable fame all of us have engraven on the "table of the memory" as connected with some interesting eras of the commonwealth.

The office of sketching an outline of his striking characteristics has been assigned to one who earnestly wished to see it in hands, nearer to and associated with his meridian. The colleagues of his zenith, could more amply and justly recount his rise and ascent. To them it would be but a reminiscence of scenes and things, that like the fashion of the world, have been shifting and passing away. To such it would be but a retrospective glance at the parts of our history in which they themselves had been actors,—at periods and events during which they too had flourished and figured. The office to be sure, confided to whom it may, is a

melancholy one ; but melancholy as it is, the discharge of it may be accompanied with some salutary effects and animating reflections. It reminds those, of a similar age, that it is the season for preparation, and that they should bury their collisions before they themselves are inurned. What were before objects only of incidental thought, might be brought closer to their observance. They might be induced to contemplate what should, and what ought, and what they expect and hope to be said of them when they also shall be gone, and the places they fill "shall know them no more." It may be an excitement to some who have latterly hazarded a stake at renown, to recollect that their desire to be remembered can be gratified only by exertions in something worthy of remembrance.

It is not, fellow-citizens, as an idle matter of course, and to lavish praises on the character of the deceased, (whose loss many of us deplore, and some we know bitterly and irreparably feel,) that we have now been called together. It is not unmeaningly to hear panegyric in general extravagance, qualities and usefulness which in some particulars, or in various degrees, are distinguishable in many (but only of the gifted order of our species,) that you have been invited on this occasion. It is to see exhibited in no other aspect than merit exacts of truth, an intellect and a genius which every man capable of appreciating them considered a rich possession. It is to present a merited and peculiar oblation fairly and equitably due to the memory of one whom death has parted from his country and his friends, and who occupied certain-

ly no confined space in the fortunes of Carolina. An Eulogium is but a correct delineation of the mental powers, the moral traits, the acquirements, the services of eminent men who have at important junctures received the confidence of their country. The effort of him who assumes such an undertaking, should be as direct and as independent, as that of the Sculptor or Painter whose design is to represent the persons and the lineaments of the living or the dead.

In this view of the memorials offered to departed spirits, they may too be some consolation to afflicted hearts, which the affections of nature must for a time plunge in grief and sorrow. The portraits, the statues of ancestors—near or remote, though unhonoured or undistinguished, infuse sensations of pleasurable solemnity. They keep before the eyes of youth, of manhood and of old age, as it were, the presence of those with whom the first and indelible impressions of infancy are so universally and delightfully connected. If the preservation of the countenance, if the “counterfeit presentment” of the form can afford at times some comfort to the woes of survivors, if they transmit to descendants the resemblance of those whose shades they are taught to honor and venerate; the image of the mind, though imperfect and incomplete, may bring some alleviation to distress. It may excite an additional motive to maintain the rank and integrity of a family. It cannot but be gratifying to the races who came after, to find recorded either in the archives of the historian, or in the tributary annals of private friendship, that the name they bear has

done the State some service, and has been conspicuous and esteemed in memorable epochs. Why read we biography, why study that "philosophy which teaches by examples?" Is it simply to indulge a vague curiosity, or to annihilate heavy and heedless hours? The manes of Plutarch, of Tacitus, of Johnson, of Gibbon, of Hume, would frown indignantly at such a perversion or forgetfulness of the grand aim of their labors.

It might too occur to us, my friends, in commemorations like the present, that reviewing the course of a distinguished contemporary who has gone before them to another world, can never disparage the greatness or lessen the celebrity of the living. Such a tribute draws nothing from the treasury of surviving fame. The truth uttered of him who is "gathered to his fathers," dispossesses of no laurel brows, still the shining ornaments of the land.

Our lamented fellow-citizen, the subject of this obituary respect, received his nativity in the parish of St. Stephen, in this District. His ancestry both paternal and maternal, were of Huguenot origin, and of first and ancient respectability in France. Towards the close of the revolutionary conflict, he embraced the facilities of a patrimonial independence, to pursue in England the studies which conduced to his future destinies. He became a polished scholar. He attained a perfect knowledge of the language so universal in Europe, and spoke it with a familiarity, elegance and purity nearly vernacular. Passing from the accomplishments of the classics, and the polite literature of the academy, he approached the Common Law

in her very oracular temple, the Inns of Court in London. His velocity of genius and superior-rate talents soon rose above the difficulties of that arduous study, which, (to use the emphatic words of Edmund Burke) "is one of the first and noblest of human sciences; a science which does more to quicken and invigorate the understanding, than all the other kinds of learning put together; but it is not apt, except in persons very happily born, to open and to liberalize the mind exactly in the same proportion." He was unquestionably "so happily born." He displayed in a remarkable degree a combination of force and enlargement of capacity with rapidity and brilliance of conception. His mental vision soon extended from the centre to the circumference of the orb he was to revolve in. No contractedness of thought, no narrowness of scheme, no limited or confined view of the professional instruction he was acquiring, could discover an inlet for their sordid influence, into an intellect at once so elevated and so far sighted. Law he studied, not merely as a livelihood and a medium of money-getting, but as the magical and invincible dispenser under Heaven of equal justice and equal rights to his fellow-creatures. From her libraries and volumes, his preconceived sentiments and sagacious comprehension readily amassed the knowledge which justified him in foreseeing success and eminence. The power which enabled him soon to master the great elements, could secure an easy passage to the practice of his profession. Before returning to the land of his birth, to engage in the active scenes of the world, he added to his literary

and professional acquirements, the improvement of travel in an European tour. He was one of the very few of those who have in our region ascended the seat of justice, who enjoyed such an advantage. Not that the survey of countries, nations and manners foreign to our own, of necessity widens the range of the mental faculties. But if there is already an expanse of intellect, enriched with the lore of learning, a keen and observing discernment and an intuitive insight into human nature, much valuable information may be gathered by scanning our species in various climates, under multiform governments and diversified religions. Its influence though not distinctively marked from the other qualities of great talents, yet mingles with them in pervading the spacious field of usefulness to the public. At the period of Mr. GAILLARD's arrival in Carolina, her bar could boast of some of the first and greatest lawyers in the United States. This being matter of history, I need but refer your recollection to the splendid catalogue. It was a constellation whose effulgence cannot be outshone. May congenial luminaries through all times of our liberty, reflect an equal light on the system which surrounds them! To be bright among such as then adorned the profession, is no equivocal stamp of sterling celebrity. To be prominent among brilliant orators, erudite jurists, finished scholars, and accomplished gentlemen, is an insurance of posthumous fame, which can never be weakened or endangered, while history is disinterested but in transmitting the truth, and men take a concern in what has past, as well as in the present, and in

that which is to come. As a practitioner at the bar, he was unsurpassed in uprightness, in judicious zeal, in ability in the cause of his clients; many of whom still spared to our society, I have heard speak of him with raptures of satisfaction. In the conduct of business the felicity of his genius arrived at its substance, while many were toiling through its forms. He went through it with the energy, alacrity and patience appropriate to the occasion. He employed no indiscriminate machinery. In the most important case, there was no parade, or hurry, none of that grovelling pomp, which is sometimes supplied as a substitute for real capacity, or resorted to as a shew of occupation, or a stratagem for employment. In all matters of his professional avocation, there appeared ease and regularity, without the tedious particulars of mere method. He lightened on the strong holds and "vantage ground" of his cause, while some by slow degrees were wading through intricate and unimportant minutiae. Though he studiously regarded the technical apparel of the law when interwoven with the essential merits of a case, he disdained the wiles and nets which to the "shadow of wisdom" only are serviceable as instruments. He carried his aim upon its intrinsic worth. If he lost it, the client was always content that justice was done him by his counsel, though he might murmur at what he conceived its denial by the occupier of its seat. The widow and the orphan always found in him the warm friend and gratuitous advocate.—His lively cast of temperament and affability of manners relieved the weariness which

must sometimes overcome the most industrious of a vocation whose responsibilities are so numerous and weighty. His pleasantry rendered the business either of the Court or the office, easy to himself and agreeable to others. There was no assumption, or affectation, or simulation about him. To his associates at the bar, he was unreserved, candid, and explicit,—neither cold nor repulsive, nor yet too compliant. He urged with fearless perseverance the views presented to his own judgment, without passing the boundaries of complaisance. He estimated the dignity of his post too highly to admit an identity of the counsel with the party he represented. He scorned advantage, though he insisted on right. He considered himself not the instrument, but the protector of a litigant.

An intellect so active, well-stored and vigorous, so commanding and comprehensive, was not permitted to continue in one department. His political talents were of the highest order. They particularly attracted the admiration of the State at the signal revolution of 1800, which brought the Republicans into power. It was a crisis more than any other since the overthrow of a foreign monarchy, pregnant with the fate of substantial liberty and popular rights. To borrow the words of one of the greatest of modern orators on a different occasion, “It was a time for a man to act in. We had powerful enemies; but we had faithful and determined friends and a glorious cause. We had a great battle to fight, but we had the means of fighting. We did fight that day, and conquer.” That conflict, my friends, was not the every-day strug-

gle of mere competitors for office : It was not a contest waged chiefly for the selection of men, not the common rivalry for personal popularity disconnected from the comparative qualifications and claims of the candidates, too often "a conclusion," (to employ an expression of Dr. Johnson) "in which nothing is concluded." The most virtuous patriots and consummate statesmen were arrayed in the contending ranks. It was a mighty warfare for principles involving the very "breath of life" of the national constitution. It was a crusade against measures, a policy and a conduct which, (however righteous the motives of their projectors) the people of the United States felt unsuited to their genius, and a violence to the safe-guards of the Republic. The victory then achieved, (if I may be allowed the expression) "saved alive the soul" of the government. "I speak with the freedom of history, and I hope without offence."

It was at this triumph that the constituents of his native parish a second time selected our deceased friend their representative in the Legislature. His election as Speaker of the House, proclaimed the voice of Carolina for Mr. JEFFERSON, and he was appointed an elector of that illustrious ornament of the age, whose name and fame are as imperishable as the spark of liberty is inextinguishable in the bosom of Americans. The presiding officer of a legislative body at a season of such political effervescence, must necessarily possess great talents to preserve dignity and order in their deliberations. No ordinary degree of judgment and tact is then requisite to enforce and regulate the employment of

the time dedicated to the public business. It may safely be asserted that in so arduous a station, no one could have excelled him. He was never taken by surprise at the parliamentary questions arising so suddenly in debate, frequently proceeding from warmth, and made the test of relative strength, and too often handled as were the Parthian arrows, as the last expedient of those who are retreating under defeat. He resolved them without hesitation, and with reasons so lucid that all assented to the conclusion, with a conscious impartiality so evident to both sides of the house, that an appeal to themselves seemed almost obsolete from disuse. In such scenes and elements he shewed a genius,

— “populares

Vincentem strepitus et natum rebus agendis.”—

As an Orator whether at the forum, in the Senate, or in a popular assembly, his rank was among the most eloquent. He was both persuasive and overwhelming. His style was perspicuous, easy, forcible and glowing, far removed from effeminacy or redundance, or the slightest seemingness of preparation. It was decorated by the suitable ornaments of a most finished education, and exhibited a fine and classical taste, acquirements which must always command a superiority. It was fervid, without extravagance, florid without inflation, chaste and elegant without conceit or affectation. His language, where the occasion required it, (and an exquisite judgment could not mistake when it occurred) could rise to the loftiest elevation of eloquence;—it was always striking and pointed, never below the dignity of the most fastidious or

refined understanding. It could flow in a majestic stream, and like the Pactolus roll golden particles in its current. There was in it too a peculiar conciseness, energy and terseness seldom united with so much grace. There was no timidity or weakness of expression,—no ambiguity or obscurity of phrase, no masking of the real purpose of the discourse by vague terms. His ideas seemed as rapidly communicated to his hearers, as they passed over his own creative imagination. They escaped from his lips clothed in the garment exactly fitted to them, illustrating the philosophical remark of Buffon, “*Le style est l’homme même.*” The light and fire and vehement enthusiasm of his mind, were transfused to the sentence which was the instantaneous conductor of his thoughts to the intelligence of his audience

In argument and debate he was powerful. He had a penetration which could fathom the abysses and trace the most intricate windings of the human heart. No recesses or mazes were undiscoverable by his sagacity. The labyrinth of craft and artifice was as passable to his scrutiny, as the straight road of plain dealing. He saw his way distinctly himself, and could illuminate it for others by the torch of his genius, and open it by the clew of his acute perception. In truth he was

— “a great observer, and looked

Quite through the deeds of men.”

He was capable too of rousing and captivating the passions, when eternal justice cried aloud for vengeance on her insult. He could then seize the citadels of the sensibilities and tender susceptibilities of our nature, and gain the trophy of pathetic ar-

dor. This was strikingly exemplified in a very memorable case, the arraignment of the murderer of a relative. On this occasion so awful and impressive, he poured forth the tremendous invective and overpowering philippic of Cicero against Catiline and Verres, and the all-subduing denunciation of Anthony over the dead body of Cæsar. Every feeling of abhorrence at the atrocious enormity of the crime, was excited in the breasts of the crowded audience, whose eyes were suffused in tears for the untimely and violent fate of the assassinated friend of the Orator; and the perpetrator of the deed paid the forfeit of his life, exacted by the laws of earth and heaven, and claimed by the anguish of an agonised family, and by an offended country, through the feeling and splendid appeal of the accuser, who vindicated their wrongs and avenged the ghost of his slaughtered kinsman.

It was not only in the style, reasoning, and solid strength of his speeches, that he evidenced an inexhaustible treasure of natural and acquired endowments as an Orator. There was a melody, an harmonious compass of voice, a distinctness of elocution, an ardent animation of manner, which enchained the fixed attention of his hearers, to the end of a discourse always limited in its range by a happy condenseness. His whole delivery delighted them, enlivened the arena of public and forensic business, and carried the conviction that he argued in the fairness of reasoning, aloof from the ensnaring or entangling subtleties of a recondite and abstruse logic. His oratory was a happy specimen of what Cicero admired as uniting the valuable

attributes of a public speaker—"Eloquens is, qui in foro, causisque civilibus, ita dicet, ut probet, ut delectet, ut flectat. Probare necessitatis est; delectare, suavitatis: flectere victoriæ. Nam id unum ex omnibus ad obtinendas causas potest plurimum."—(*Orat. ad Brut. S. 21.*)

It was not in his extemporaneous speeches alone that he was distinguished. As a writer, his compositions were an admirable model of imitation. One I well remember, (as do many who are here present) delivered by him where I have now the honor of appearing before you. He was the first Orator appointed at the formation of the '76 Association. On the anniversary of the national constitution, he pronounced a finished encomium on its august framers, and a most luminous commentary on the blessings it would secure to our happy land, and the sanctuary which would be opened to the persecuted and oppressed of all nations and climes, under this wonderful, and I hope indestructible, edifice of republican government.

He possessed too in a transcendent degree that rare talent which, like the poet's, is a gift of nature, genuine wit. It was playful and sportive, elastic and recreative in the hours and toils of business, diffusing cheerfulness and social charm, but never outstepping dignity. It exhibited a mirthful irony, without violating courtesy. It conveyed the sting too when deserved, and the aptness of the moment never escaped his sagacity. His sarcasm could be poignant and bitter. When the occasion called for it, ridicule was a formidable weapon in his hands. In his satire, there mingled sometimes

the sprightly and instructive vivacity of Horace, at others the serious and terrible severity of Juvenal. Perhaps no faculty of the mind requires more wariness and prudence in its just and wholesome exercise, and none so frequently confounded with its spurious substitutes. Risibility can easily be excited by the humour of burlesque and drollery, but this is the proper diversion of a farcical afterpiece. The pretence of rudeness or flippant conceit, mistakes as a sign of its triumph, what is its best punishment, unretaliating silence..

After a service of several years in the Legislature, (during which he declined a re-election to the Chair, from the principle he professed that such honors should be partaken of in rotation by others) he retired to more tranquil scenes. But in the contest of 1808, which resulted in the elevation of Mr. MADISON to the Presidency, and the continuance of the Republican system of administration, he was induced to add the weight of his abilities, political popularity, and influence, to the cause of his party. He was returned a member of the House, from the Parish of Christ Church. His able discharge of the duties of Speaker, was still fresh in the remembrance of all. The station was again conferred on him under circumstances highly flattering and complimentary.

It was during this session that the Court of Appeals in Equity was established, a tribunal which greatly meliorated the condition of our judicature. It was a reformation introduced and supported by the most enlightened of the profession. The acknowledged talents, erudition and experience of

the officer who presided over the house, identified him at once with the institution they had created. He was invested with the ermine by an unanimity seldom paralleled. In this office so vitally important to the great interests of property, and the domestic and business relations of society at large, his unclouded intelligence, quick-sighted acumen, and solid strength of judgment, applied with readiness and singular aptitude the doctrines of Chancery to the cases which called for his adjudication. Of these doctrines his knowledge was extensive, profound and eminently practical. His decrees were pronounced with a promptness and decision equally removed from precipitancy or unnecessary delay. They were the exact type of his ideas, clear and easily intelligible to all. They were encumbered by no superfluous reference to authorities, no pedantry of the science, (of which for the occasion he conceived himself the expositor and the minister,) no useless elaboration in arriving at a conclusion. His analyzing mind had thoroughly investigated the original sources of our jurisprudence by which he was to be governed. A most felicitous memory could array instantly the printed guides he was to follow, while his nice discrimination developed the spirit and reason of the equitable and legal codes he was dispensing. No Chancellor submitted with more deference to points already decided, though they met not his concurrence. No one was more zealous in preserving inviolate the great land-marks of the system, though the bold independence and activity of his penetrating mind would discern, and would fearlessly assert,

when requisite, the inapplicability of some antique principles to our unparalleled institutions. What was said of Lord Thurlow by an admirer, may be repeated of him, "I never found that he meant to break through the rule. No man criticised more upon rules laid down by other judges, but no man was more rigid in observing them, when he could once deduce them."—*3d Vesey*, 527.

JUDGE GAILLARD, though anxiously desirous of sustaining the boundaries between the tribunals of law and equity, wished to assimilate as far as is practicable in wise discretion, and to amalgamate in the administration of justice, the nature of each with the other. His view might be somewhat similar to what Lord Eldon declared of two objects of his admiration—"Chief Justice De Grey said, he never liked equity so well as when it was like law. The day before I heard Lord Mansfield say, he never liked law so well as when it was like equity;—remarkable sayings, (he added) of those two great men, which made a strong impression on my memory."—*6 Ves.* 259. There was a very general acquiescence in or confirmation of his decrees. When he differed with the bench of his judicial colleagues, it was then he took more than ordinary pains. His lights and learning became then peculiarly public property. They were put forth to be examined by all, not for display or effect, but from an imperative sense of indispensable duty, which would withhold nothing from the suitors, the bar and the community. His ambition was to satisfy himself that his judgment was supported by principle and precedent,—and when

precedent failed, the exuberance of his intellect was never bewildered in reaching the point where justice should prevail. A Judge who should commence with, "Having had doubts upon this Will for twenty years," would, (however extraordinary his attainments) in our country, be soon transferred to the chair of a professorship, as better adapted to his lucubrations than the business for which laws and courts are designed.

The satisfaction afforded by the amenity of his manners, the resolute and wise exercise of his official power, the disposition to accommodate where there was no sacrifice of what he deemed not under his control, by the safety and correctness of his decrees, and a judicious despatch of business without haste or impatience, was fully manifested by a re-election of our lamented friend as complimentary as his first, when the Chancellors resigned to receive a compensation more equivalent to their labors;—a testimonial certainly not of doubtful character.

In 1824, a new arrangement of the Circuit and Appeal Courts was organized. Whether this innovation is an improvement on the preceding models, (one of them coeval with our Constitution, another existing for sixteen years,) must be left to a test of the same duration, if a triumvirate is not long before superseded by other experiments. At this period of the partition and division of judicial labors, the duties of the law bench were allotted to Judge GAILLARD,—the number of Chancellors being reduced to two, and they and the law Judges rendered subordinate to the appellate. The ver-

satility of his genius, the variety of his information, and the speediness with which he could recover the recollection of former and grasp the extension and accumulation of any knowledge, soon rendered his novel situation light and familiar to him. It furnished too a wider and more apposite scope for his popular, delightful and commanding eloquence, than the fabric of the Chancery scarcely ever presents. His charges to the Jury comprised so succinct a compendium of the circumstances and proofs, that the various capacities of our citizens embraced without fatigue the compass of the case. His abstract so divested it of the extraneous and irrelevant, that their good sense could review the concentrated weight of the testimony with the ease their memory could retain the incidents of an impressive narrative. In conducting their attention to the law which was absolutely to control them, he was distinct, confident and energetic, avoiding authoritative dictation, but maintaining the prerogative of office bestowed by the popular sovereignty for the public good. He knew and participated in the feelings of the people of this country too well, not to be certain that they would firmly and conscientiously enforce the dominion of their laws, the only omnipotence under heaven which they acknowledge.

As a magistrate, no one was actuated by a more strict and accurate sense of his duties to the public. During the sixteen years he served as a Chancellor, an excellent constitution, with uninterrupted health, enabled him to be constant at his post, and vigilant and unwearied in the discharge of its func-

tions. He knew well the rational allowances for the difficulties in which the counsel and clients, with all their diligence and zeal, must at times be embarrassed in their progress. But he avoided in his indulgence the extreme of either lenity or rigor. When business could be done with efficiency, (the mere show of it he detested,) his co-operation and unrelaxing attention would accelerate its march. In a judicial administration approaching a quarter of a century, (but one year less than Sir Matthew Hale's,) his good fortune would have been singular indeed, had he escaped the insinuations and murmurings of unjust discontent, of jealousy or of envy, to which that celebrated English Judge was exposed, and which all, whose pre-eminence eclipses inferior but aspiring intellects, must in the general course of events expect to follow their superiority. The sturdy independence of Lord Coke, and the inflexible integrity of Clarendon, could not avert the stroke aimed by the vindictiveness and malignity of enemies. The resentment of subordinate minds, or narrow hearts, can never be extinguished or appeased. It can only be silenced, if not satiated, by the removal or the downfall of the colossus which daily casts a shadow on the diminutiveness of their statues. On such occasions, pusillanimity is propelled by both consciousness of wrong and the dread of its object. Such examples verify the remark of the Roman historian who held the key to the human heart, that ill-will towards an individual is but the necessary consequence of having injured him. A really great man should, however, treat the calumnies and scandals

of the assailants of his public character and the defamers of the purity of his motives, with the disdainful contempt uttered by Mr. Burke for those who attempted to discredit him with his constituents at Bristol—"The highest flight of such clamorous birds is winged in an inferior region of the atmosphere. We hear them, and we look upon them, just as you do, gentlemen, when you enjoy your serene air on your lofty rocks, look down upon the gulls that skim the mud off your river, when it is exhausted of its tide."

In reference to the more active pursuits of life, and the frequent recurrence of occasions which call forth the strong and sometimes the violent emotions of the mind, as to passing scenes, perhaps Judge GAILLARD'S predominant passion was a deep, intense and ardent interest in the political fortunes and concerns of his country. From those of high rank in the profession, and on the Bench, in this hemisphere, we almost naturally look for this propension of the mind. All our institutions being reared on the foundation of freedom and equal rights, those who from youth have imbibed in daily study the spirit of our laws and constitutions, appear as it were the vanguard in descrying their transgressions, and detecting aberrations from their injunctions. They habitually become guardians of the rights of their fellow-citizens, sentinels over the movements of those in power, antagonists of encroachment, champions of a constitutional and wise administration, and suppressors of factious and indiscriminate opposition. To be the head of a party at any time is in general a testimonial of some talent, or some

signal service. But to be a leader in the times which brought him on the political stage, is an incontrovertible proof of intellectual supremacy. The immortal author of the *Decline and Fall of the Roman Empire*, who as a member of Parliament studied men, as in his unbounded scholarship he studied languages and books, records from his personal observation, Mr. Fox's "argumentative vehemence, who in the conduct of a party approved himself equal to the conduct of an empire."

In the political sentiments and acts of our deceased friend, there were always discernible decision and consistency. He was a great advocate of the reform of our representation in the legislature, and of the extension of the elective franchise which has given our citizens equal privileges and equal participation in the enactment of the laws which are to govern them. He was a politician, not for the gratification of his own ambition. He never swerved from uniformity to gain office, or for his own aggrandizement. He declined the solicitation of influential admirers during the late war, (while he resided at Columbia,) to represent them in Congress; as also two appointments (of District Judge) from the General Government. He was satisfied with the judicial honor which his native state had bestowed on him, though nature seemed to have destined him for a statesman.

I have spoken chiefly of his public course. But in private life he possessed an alliance of qualities which endeared him to his friends, and of virtues which will render his memory sacred where the awful calamity of his loss is most severely and hea-

vily felt. He was benevolent and kind to the poor, compassionate and charitably indulgent to the infirmities of our nature. Added to all, he was a religious man. In his Christian faith he was sincere and impregnable. I do know that he was a devoted and profound student of divinity. An immense portion of his very generally extensive reading, was of the highest standard theological works. He studied the inspired volumes for himself, but sought with an unabating avidity for the opinions and expositions of learned divines, on the doctrines and mysteries of revealed religion. Though his preference of the faith and institutions of Protestant Episcopalians was decided and unmoved, he was too pious a man and too enlightened a citizen, not to hold in reverence all other persuasions and sects. Neither bigotry nor polemical controversy mingled with his own belief or his attachment to the forms of worship which he preferred. He claimed only for his own conscience and his own church, the inalienable liberties which our glorious and happy constitution has guaranteed to all who worship God in spirit and in truth. He thought with the ancient Christians of Constantinople, "Our bodies are Cæsar's, but our souls belong only to God."

That his devotion in the advancement of religion was fervent, and his piety ardent and practical, "ever witness for him" two conspicuous monuments—The establishment of the fund for promoting the independence of the episcopate, and enabling the incumbent to supervise with undivided attention the general interests of the Diocess, was an object of his intense solicitude. The erection of a holy

mansion for Episcopal service at the Capital of our State, was projected and achieved by his unremitting exertions. Philanthropy and industry, indeed, marked his steps towards every work in whose completion his foresight augured benefit and prosperity to the public.

Within the last three years of his life, it pleased Heaven to visit him with grievous affliction, which for a time deprived the State of his services. His sufferings were great, but he bore them with the serenity and fortitude of philosophy,—and with the patient and humble submission of the pious, who look to “things which must be hereafter.” As soon as his physical frame could gratify the aspirations of his mind, his irrepressible sense of duty rose paramount to every terrestrial consideration. He undertook the remote journeyings requisite in the performance of judicial functions. The last act of his high office, was the trial of a citizen for his life. He thought the accused innocent and injured. His eloquent charge conduced to his acquittal. His robust mind rose above bodily debility, and the blaze of his genius flamed radiant and resplendent like the light of the setting sun. But the infirmity of his system could not long sustain the weight or support the active operations of so powerful an intellect. This was too observable to the friends and gentlemen of the Bar who were around him. With a kindness and tenderness, the unerring indication of magnanimity, they endeavored to arrest even his further thought of business. Their urgent advice could not prevail over his own view of his duty. He proceeded on his journey to

the adjoining district,—but nature was exhausted, and his mortal career was drawing to a close. Convinced that his end was approaching, he looked to it as a termination of his woes. With the undaunted Roman he thought—

“ Of all the wonders that I yet have heard,
It seems to me most strange that men should fear ;
Seeing that death, a necessary end,
Will come—when it will come.”—

It had no terrors for him. He had done his earthly duties to the best of his powers. He met it as a welcoming messenger. It was his relief that he had finished his course. It had been his hope, that like his venerable brother, (that amiable and exemplary statesman, so long the popular President of the national Senate,) he should terminate his life while in the actual service of his country. That hope was realized, and

“ He gave his honors to the world again—
His blessed part to heaven, and slept in peace.”

This excellent man, this public-spirited patriot, this pure and worthy magistrate, expired at a distance from his home, and unsurrounded by his family. His fate in this was peculiarly like Agricola's. “*Omnia sine dubio, optime parentum, adsidente amantissima uxore, superfuere honori tuo, paucioribus tamen lacrymis compositus es, et novissima in luce, desideravere aliquid oculi tui.*”

If through the inscrutable wisdom of Omniscience, it was denied to affectionate children to administer the last offices to parental love, it is a comforting solace that he died *not* among *strangers*. His last day was with those who could condole and sympa-

thize with their bereavement, and who in a long lapse of years well knew his virtues and his usefulness. His obsequies were performed and attended by admirers of his life, and venerators of his memory. To them, I am commissioned on behalf of sorrowful distress and wounded hearts, to express their warmest obligation and most lasting gratitude.

The departure, fellow-citizens, of our lamented friend, from the scenes of this life, seemed ordained by Heaven, "in its wise mercy," at a crisis suited to and congenial with his fame. From the nature of his affliction, which the preparation of his mind had made him certain would eventuate in his dissolution, he did not look forward or ever hope for a prolongation of existence, under the prospect of being unequal to the labors of his station. It is a consolation to his surviving friends, (as I know it was the pride and desire of his latter days) that it should be said of him—He died at his post.

Every good citizen, and every faithful public servant, may wisely and piously repeat, "Let my last end be like his."

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